

The University of Chicago

NEGOTIATIONS FOR
RELEASE FROM THE INTER-OCEANIC
OBLIGATIONS OF THE CLAYTON-
BULWER TREATY

A PART OF A DISSERTATION SUBMITTED TO
THE FACULTY OF THE DIVISION OF THE
SOCIAL SCIENCES IN CANDIDACY FOR THE
DEGREE OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF HISTORY
JUNE, 1941

By
ELLA PETTIT LEVETT

CHICAGO, ILLINOIS

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SUMMARY AND CONCLUSIONS

In the 1840's British influence in the northern part of South America and in Central America was strong, and British possessions in the latter area were rapidly expanding.¹ Diplomatic efforts of the United States, as exemplified in the treaty of 1846 with New Granada² (later Colombia) and the negotiations conducted by Elijah Hise³ and Ephraim George Squier⁴ with Nicaragua and other Central American states, had not served to hold British interests in check.⁵ An additional restraint was needed. At the same time, the government of Great Britain was not entirely sure of the extent to which the expansionist tendencies in the United States, as illustrated in the acquisitions resulting from the Mexican War, might develop; and constantly shifting European and empire conditions were an inducement to the British government to secure, if possible, stability in regard to inter-oceanic transit affairs, provided this result could be attained without too much sacrifice of British interests in the New World.⁶ In addition, it was hoped

¹William R. Manning (ed.), Diplomatic Correspondence of the United States: Inter-American Affairs (12 vols.; Washington: Carnegie Endowment for International Peace, 1932--), III, 31.

²U.S., Department of State, United States Treaties with Foreign States (MSS, Treaty Series, Dept. of State Archives), no. 54. (Hereafter cited as "Foreign Treaties.")

³U.S., Department of State, Unperfected Treaties (MSS, Dept. of State Archives), no. T 2.

⁴Ibid., no. W 1.

⁵Squier, Chargé d'Affaires of the United States in Guatemala, to John M. Clayton, Secretary of State of the United States, León, Dec. 27, 1849, Manning, op. cit., III, 468-69, 484-85.

⁶31st Congress, 1st Sess. [1849-50], House Exec. Doc., ser. 579, Doc. no. 75, p. 232; Lord Palmerston, Secretary of Foreign Affairs of Great Britain, to Abbott Lawrence, United States Minis-

that an agreement for joint control of any canal which might be constructed between the Atlantic and Pacific Oceans would encourage capitalists of the two nations to pool their resources for the promotion of the enterprise.

As a consequence of the situation faced by the two powers, a decision was made in favor of the compromise agreement of April 19, 1850, commonly designated as the Clayton-Bulwer treaty.¹ By the terms of this convention, the two contracting parties agreed that the neutrality of the Nicaraguan canal area should be guaranteed jointly by the United States and Great Britain, with the support of such other maritime nations as might be invited to participate in the agreement.² A further stipulation of the treaty, to the effect that neither nation should "fortify, or colonize, or assume, or exercise any dominion over Nicaragua, the Mosquito Coast, or any part of Central America," became the basis of a hope on the part of the United States that Great Britain would withdraw completely from Central America and possibly from her Belize settlement as well.³ The British government, in turn, looked to this clause to check possible expansion on the part of the United States, and saw great advantage in an additional stipulation wherein it was declared that the object of the treaty was to establish a "general principle" and to provide for further treaty engagements in case it should be deemed best to construct the inter-oceanic transit elsewhere than through Nicaragua.

Despite the advantages which Secretary of State John M. Clayton and President Zachary Taylor felt would accrue to the United States through the terms of the Clayton-Bulwer treaty, the agreement was considered by many to be in direct violation of the principles of the Monroe Doctrine.⁴ The convention met with considerable opposition from a minority group in the Senate in 1850,

ter to Great Britain, London, Nov. 13, 1849 (Private and Confidential), Manning, op. cit., III, 322-23.

¹Foreign Treaties, no. 122.

²Ibid.

³Congressional Globe, 32d Cong., 2d Sess. [1852-53], pp. 237-38; J. Fred Rippey, The Caribbean Danger Zone (New York: Putnam 1940), p. 99; Congressional Globe, 34th Cong., 1st Sess. [1855-56] pp. 107-111.

⁴Ibid., 32d Cong., 2d Sess. [1852-53], pp. 170-77.

although a two-thirds vote in favor of ratification was secured.¹ The efforts of the United States to free itself from the restrictive provisions of the treaty extended over a period of fifty-one years and may be said to have assumed two principal phases. These were the direct efforts made to obtain the consent of Great Britain to the modification, abrogation, or annulment of the convention; and the indirect efforts made through negotiations with Mexico, Colombia, and the Central American countries to secure control of the inter-oceanic transit areas. Much of the Congressional action taken or proposed in regard to the Anglo-American treaty or the inter-oceanic canal may also be listed as indirect effort.

The direct negotiations with Great Britain assumed a two-fold character. At times the United States government exhibited a defiant attitude and made claims or demands which the British government generally met with carefully formulated arguments;² at times it attempted conciliation and persuasion,³ which the British successfully resisted until conditions in Europe and the British Empire were such as to induce Great Britain to sacrifice treaty rights in the Western Hemisphere in return for the good will of the great power of the New World.

The indirect efforts of the United States to secure release from the Clayton-Bulwer treaty, whether efforts of the executive or of Congress, were dual in nature. The negotiations conducted by the State Department with the Central American countries, Colombia, and Mexico at times contravened the terms of the 1850 agreement;⁴ at other periods these diplomatic endeavors were limited

¹Ibid., App., p. 267.

²For example, see James G. Blaine, Secretary of State of the United States, to James Russell Lowell, United States Minister to Great Britain, Washington, Nov. 19, 1881, no. 270, Instructions, Great Britain, Vol. XXVI; Lord Granville, Secretary of Foreign Affairs of Great Britain, to Sir Lionel L. Sackville-West, British Minister to the United States, London, Jan. 7, 1882, Notes from Great Britain, Vol. CVII.

³For example, see Parliamentary Papers, 1901, "Correspondence Respecting the Convention signed at Washington, February 5, 1900, Relative to the Establishment of a Communication by Ship Canal between the Atlantic and Pacific Ocean" [Cd. 438], p. 4.

⁴For examples, see William L. Marcy, Secretary of State of the United States, to James B. Bowlin, United States Minister to

to attempts to secure treaties or protocols which might be termed preparatory in nature, the object being to place the United States government in a position to avail itself immediately of the advantages of any agreement with Great Britain which would open the way for the construction of a canal under the control of the United States.¹ In addition, many indirect efforts toward release from the Clayton-Bulwer treaty were made by Congress. Quite frequently Congressional endeavors took the form of defiant resolutions calling for the abrogation of the 1850 agreement by legislative enactment or declarations maintaining that the convention had been nullified by the acts of Great Britain.² On other occasions, Congress coöperated with the State Department in its efforts with the countries holding the transit routes, canal bills being introduced, discussed, and sometimes approved, bills which provided for varying degrees of participation by the United States government ranging from the simple granting of Federal incorporation to a canal company to outright ownership, management, and control of the projected canal.³

The principal differences between the two nations in regard to this pact during the early years lay in the contradictory interpretations of the provision concerning the exercise of control in Central America.⁴ During the decade of the 1850's the United

New Granada, Washington, Dec. 3, 1856, Instructions, Colombia, Vol. XV; Unperfected Treaties, no. W 2; Thomas Corwin, United States Minister to Mexico, to William H. Seward, Secretary of State of the United States, Mexico, July 29, 1861, no. 3, 37th Cong., 2d Sess. [1861-62], Regular Confidential Documents, Senate Exec. Doc. no. 50, p. 479.

¹William M. Malloy (comp.), Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, 1776-1909 (2 vols.; Washington: Govt. Prtg. Office, 1910), I, 1290.

²For example, see Congressional Globe, 32d Cong., 2d Sess. [1852-53], App. pp. 170-77; ibid., 35th Cong., 1st Sess. [1857-58], pp. 2451, passim.

³ibid., 50th Cong., 2d Sess. [1888-89], pp. 2084, passim; ibid., 53d Cong., 3d Sess. [1894-95], pp. 1356-58.

⁴Lord Napier, British Minister to the United States, to Lord Clarendon, British Secretary of Foreign Affairs, Washington, June 7, 1857, no. 90, Great Britain, Public Record Office, MSS, Foreign Office (hereafter cited "F. O.") no. 5, Vol. 672, pt. 1 (photostatic copy, Library of Congress, Division of Manuscripts).

States was very active in its efforts to secure transit concessions from Mexico, and strongly opposed the advance of British interests in the whole isthmian region. The influx of filibusters from the United States into the Central American states during this period was, in all probability, a factor in strengthening British determination to maintain the advantages already held.¹

In the meanwhile, however, the United States government had decided upon direct negotiation with the British government, and for a time it seemed likely that an agreement signed by the British secretary of foreign affairs, Lord Clarendon, and the United States minister to Great Britain, George Dallas, in October, 1856, would settle the Central American difficulties;² but Senate amendments to this convention proved too much for the British government,³ and indirect efforts to obtain a measure of relief from the restrictive provisions of the Clayton-Bulwer treaty again were attempted through negotiations with the Latin-American states.

Great Britain attempted to adjust the difficulties in Central America by means of special negotiations with the states of the region. Sir William Ouseley was sent as a special commissioner.⁴ A bid was made for the support of the United States in this effort toward conciliation, but little coöperation was accorded.⁵ The latter government, at the same period, was endeavoring to strengthen its position in the transit areas by means of treaty agreements. Negotiations with New Granada resulted in the signing in September, 1857, of a convention between Lewis Cass, the secretary of state of the United States, and Pedro A Herrán, the representative of New Granada.⁶ This treaty, while not nearly so aggressive as the

¹Lord Malmesbury, British Secretary of Foreign Affairs, to Lord Napier, British Minister to the United States, London, Nov. 26, 1858, no. 182, *ibid.*, F. O. 115, Vol. 192, pt. 4.

²U.S., Department of State, Unperfected Treaties, no. F 1.

³Napier to Lewis Cass, Secretary of State of the United States, Washington, May 6, 1857, Notes from Great Britain, Vol. XXXIV.

⁴Napier to Clarendon, Washington, Oct. 22, 1857, no. 221 (Confidential), *ibid.*, Vol. XXXV.

⁵Mary W. Williams, Anglo-American Isthmian Diplomacy, 1815-1915 (Washington: The American Historical Association, 1916), pp. 262-63.

⁶U.S., Department of State, Drafts of Treaties (MSS, Dept. of State Archives), Vol. I, passim.

plans projected by the United States as a result of injuries to its citizens during a riot in Panama,¹ provided for the transfer of an island in the Bay of Panama to the North American power, and stipulated that the two countries should coöperate to "preserve peace and good order along the Transit Route. . . ." The convention, however, failed to receive the ratification of the two contracting parties. Further efforts along the same lines resulted in the signing of an agreement in November of the same year between Cass and Antonio José de Yrisarri,² the Nicaraguan minister to the United States. This treaty was formulated in such a way as to give to the United States wide rights in the Nicaraguan transit region, but it, likewise, failed to receive the approval of the respective governments.

The difficulties encountered by Great Britain in the course of the Crimean War led that nation to assume a somewhat more friendly attitude toward the United States, and the warning of Lord Napier, the British minister in Washington, to the effect that legislative abrogation of the Clayton-Bulwer treaty appeared inevitable if Great Britain failed to pursue a more conciliatory course in regard to Central America³ did not go unheeded. The activities of Ouseley were intended to effect the settlement of controversial issues, and when the negotiations conducted by this official failed to give evidence of such a purpose he was recalled. Charles Wyke, who continued the diplomatic efforts of the British government, succeeded in bringing about an arrangement more satisfactory from the viewpoint of the United States.⁴

During this same period, although Congress frequently discussed the Clayton-Bulwer treaty and several times considered resolutions calling for its abrogation, the United States government

¹Marcy to Morse, Special Agent of the United States to New Granada, and Bowlin, Washington, Dec. 3, 1856, Instructions, Colombia, Vol. XV.

²Unperfected Treaties, no. W 2.

³Napier to Clarendon, Washington, June 7, 1857, no. 90, F.O. 5, Vol. 672, pt. 1.

⁴Williams, *op. cit.*, pp. 264-65; Lord Russell, British Secretary of Foreign Affairs, to Lord Lyons, British Minister to the United States, London, Jan. 6, 1860, enclosing private letter from Wyke (unaddressed and unsigned), Nov. 28, 1859, Notes from Great Britain, Vol. XXXIX.

was not ready to abandon it. The fear of British designs on the transit area was still strong enough to persuade the former government that a pledge in prohibition of colonization in the area might well be maintained.¹

During the period of the Civil War the United States continued, to a limited extent, in its endeavors to secure more satisfactory arrangements with the countries to the southward. An effort was made to lend, under certain conditions, sufficient funds to the Mexican government to allow the resumption of service on the national debt.² When this effort failed, however, and European intervention actually occurred, the United States stood more or less aloof until improved conditions within the latter country and a threatening aspect of European affairs afforded a much more auspicious opportunity to secure the release of Mexico from foreign domination.

President Grant was eager to secure the control of the inter-oceanic routes for the United States and in conjunction with his secretary of state, Hamilton Fish, carried on active negotiations with the Latin-American countries. Considerable interest was shown during this administration in the securing of naval bases for the United States and, in general, in the strengthening of the power of the country in the Caribbean area.³ This policy was continued by President Hayes.⁴

The United States, however, became far more aggressive in the 1880's, and the position was taken that, since Great Britain allegedly had failed to comply with the terms of the Clayton-Bulwer treaty, a radical modification, abrogation or annulment of the

¹Napier to Cass, Washington, April 12, 1858, ibid., Vol. XXXVI.

²Seward to Corwin, Washington, Aug. 24, 1861, no. 15, Instructions, Mexico, Vol. XVII.

³Fish to Edward Pierrpont, United States Minister to Great Britain, Washington, Feb. 28, 1877, U.S. Department of State, Foreign Archives, Diplomatic, Archives of the American Legation at London, Instructions from the Department of State CS.2, Vol. XLII.

⁴Charles Richard Williams (ed.), Diary and Letters of Rutherford Birchard Hayes, Nineteenth President of the United States (3 vols.; Columbus: Ohio State Archaeological and Historical Society, 1924), III, 583.

agreement had become imperative. This decade was marked by a long series of arguments in which the British government managed to maintain the superior legal position.¹ Toward the close of this ten year period, the government of the United States again became actively involved in negotiations with the Central American states. Most of these dealings apparently were based upon an assumption that the Clayton-Bulwer treaty was no longer of binding force. An agreement between William Henry Trescot, as representative of the United States, and R. Santo Domingo-Vila, the Colombian minister to the United States, was signed in February, 1881.² Its terms were contrary in spirit to the 1850 agreement, and rumors of European opposition were reported.³ The proposition failed to receive the approval of the Colombian government, however, and the matter was dropped.

The policy projected by Secretary of State James G. Blaine in the foregoing arrangement was continued and enlarged upon by his successor in office, Frederick T. Frelinghuysen. The long arguments with the British government continued, and, in addition, a convention was signed in December, 1884, between Frelinghuysen and the Nicaraguan plenipotentiary, Joaquín Zavala. By its terms the United States and Nicaragua were to assume complete control of the canal enterprise. The former nation pledged itself to construct and maintain the transit as a government project. Guarantees to non-American powers in regard to the neutrality of the canal were omitted from the new convention, and the former policy of the United States in upholding private investment was discarded in favor of government construction and control.⁴

The British government during the early 1880's, while re-

¹Memorandum prepared by Attorney-General Richard Olney in 1894, Richard Olney Papers (MS, Library of Congress). A copy of this memorandum (erroneously dated 1896) is to be found in John Bassett Moore, A Digest of International Law (8 vols.; Washington: U.S. Govt. Prntg. Office, 1906), III, 203-09.

²Protocol enclosed in William H. Trescot to William M. Evarts, Secretary of State of the United States, Washington, Feb. 18, 1881, Papers Relating to the Foreign Relations of the United States (Washington: Govt. Prntg. Office, 1861--), 1881, pp. 374-75.

³Ernest Dichman, United States Minister to Colombia, to Blaine, Bogotá, May 9, 1881, no. 269, Despatches, Colombia, Vol. XXV.

⁴Unperfected Treaties, no. Y 2.

fusing to agree with the government of the United States concerning the alleged rights of the latter nation in regard to the projected transit way, maintained a rather patient attitude. With the return of the Democratic party to power after the election of 1884, the policy of the United States underwent a change. The treaty with Nicaragua was withdrawn from the Senate and the Clayton-Bulwer agreement again was tacitly recognized as binding.¹ This policy was continued by the succeeding Republican administration under President Harrison in spite of the return of Blaine to the office of secretary of state.

Attorney-General Richard Olney, in a memorandum written in 1894, offered the opinion that the convention of 1850 was entirely valid and suggested that if the United States wished to recede from its agreement negotiations should be opened for abrogation by mutual consent of the contracting powers.² This advice, however, was not followed by Secretary of State Walter Q. Gresham, but shortly thereafter Olney succeeded to the leadership of the State Department. A more or less critical period in Anglo-American relations in 1895, the time of the Venezuelan crisis, was followed by rapprochement, and Olney seized the opportunity to open negotiations again for the abrogation of the Clayton-Bulwer convention.³

Although Olney failed to obtain a definite answer in regard to the drafts which he presented to the British ambassador, Lord Pauncefoot, the way was prepared for future negotiations. The expanding interests of the United States in the Pacific and the difficulties encountered by Great Britain as a result of the Boer War provided further factors to convince the British government of the value of a close understanding between the two great English speaking nations. At the same time, the United States, confident in its increased powers, stood without fear of British encroachments in the Central American region. The Spanish-American

¹James D. Richardson, A Compilation of the Messages and Papers of the Presidents (20 vols.; New York: Bureau of National Literature and Art, 1917), X, 4888.

²Supra, p. 8, n. 1.

³Olney to Sir Julian Pauncefoot, British Ambassador to the United States, Washington, Jan. 29, 1897, Notes to Great Britain, Vol. XXIII. Copies of two draft treaties are to be found in the Olney Papers. Copies which differ somewhat in context are to be found in the State Department, Drafts of Treaties, III, 1105 ff.

War, moreover, tended to attract the attention of both Great Britain and the United States to the need for an inter-oceanic passage for the rapid maneuvering of battle-fleets.

In such circumstances, negotiations were opened in the closing years of the nineteenth century for the material modification of the Clayton-Bulwer treaty. At first these suggestions did not include a provision for the abrogation of the earlier agreement. A treaty between John Hay, secretary of state of the United States, and Pauncefote was signed on February 5, 1900, although the British government had procrastinated for over a year after the submission of the initial draft of this treaty before directing Pauncefote to proceed with the negotiation. This first Hay-Pauncefote treaty, as the agreement is generally entitled, not only failed to provide for the abrogation of the Clayton-Bulwer convention, but also left unaltered the prohibition in regard to fortifications in the canal area and the stipulation whereby the canal was to remain open even to the vessels of enemies in time of war. The principal alteration was in favor of United States construction and management of the projected canal.¹

The stipulations of the foregoing agreement proved inadequate to satisfy the Senate. Amendments were made to the convention that changed it in such a way as to provide for the exclusion of other nations from the guarantee of the transit area, and to allow the United States to take steps which might be considered necessary and proper for the defense of the canal. Furthermore, an amendment was added to provide for the abrogation of the agreement of April 19, 1850.²

The British government regarded the amended convention as a manifestation of an unwarranted assumption of authority on the part of the United States Senate. The opinion was expressed that a bilateral agreement, such as that represented by the Clayton-Bulwer treaty, could not be abrogated by the action of one power

¹Unperfected Treaties, no. L 1: John Hay, Secretary of State of the United States, to Joseph H. Choate, United States Ambassador to Great Britain, Washington, Feb. 6, 1900, Joseph Choate Papers (MSS, Library of Congress, Division of Manuscripts).

²Henry Cabot Lodge to Henry White, Secretary of the United States Embassy in London, Washington, Dec. 18, 1900 (confidential) White Papers (MSS, Library of Congress, Division of Manuscripts); Unperfected Treaties, no. L 1.

without an attempt even having been made to ascertain the views of the other contracting party.¹ Explanations were offered thereupon as to the character of the authority of the Senate in the matter of suggesting alterations to treaties. The British government, however, hesitated to give its assent, although its resentment was mollified to some extent by the suggestion that trans-continental railroad interests in the United States and Panama were more powerful in determining the amendments to the treaty than was any sentiment of enmity toward Great Britain.² Nevertheless, the matter became involved with the international issues concerning the Canadian-Alaskan boundary dispute³ and the difficulties in regard to the Samoan Islands,⁴ and a delay of approximately a year occurred before the British government tendered an official reply to the United States government. This response included a refusal to accept the terms of the amended treaty, but left the way open for further negotiations.

In the meanwhile, the United States, hopeful of securing an ultimate release from the agreement of 1850, had entered into a series of negotiations with the Central America nations to prepare the way for the construction of an inter-oceanic canal as soon as a favorable reply should be received from Great Britain. The new agreements, however, were made dependent upon the consummation of a satisfactory convention with the British government.

Upon the expiration of the time limit set for the ratification of the amended Hay-Pauncefote agreement, and even before the British reply had been received, Congress again took up the question of abrogating the Clayton-Bulwer treaty by legislative enactment.⁵ It was obvious that diplomatic adjustment must

¹Choate to Hay, London, Feb. 27, 1901 (confidential), Choate Papers; Hay to Pauncefote, Washington, March 25, 1901, Notes to Great Britain, Vol. XXV; Hay to Choate, March 13, 1901, Choate Papers.

²Enclosures in Choate to Hay, London, Dec. 21, 1900, Despatches, Great Britain, Vol. CCI; ibid., Dec. 22, 1900.

³White to Hay [London], Feb. 11, 1899, White Papers.

⁴ibid., Feb. 17, 1899.

⁵Congressional Record, 56th Cong., 1st Sess. [1899-1900], XXXIII, 4641; ibid., 57th Cong., 1st Sess. [1901-1902], XXXV, 8, 13-28.

be made promptly if an embarrassing international situation were to be averted. The British government, moreover, was pressed by economic interests which favored the building of an inter-oceanic canal on almost any terms provided British shipping were accorded most-favored nation privileges.¹

Prior to the receipt of the formal rejection of the first Hay-Pauncefote treaty by the British government, Hay was busy with the preparation of a new agreement. Care was taken this time to obtain the advice and assent of leading Senators before the new draft was transmitted to the British ambassador in April, 1901. Despite all of the factors which called for an immediate decision concerning the proposition submitted by the United States, a delay of nearly a year ensued. During this time Joseph Choate, the United States ambassador to Great Britain, and Henry White, the secretary of the United States embassy in London, worked almost constantly to obtain British approval of the new draft.²

In the meanwhile, considerable difficulty was encountered by Congressional leaders who strove to prevent legislative abrogation of the 1850 agreement. President Theodore Roosevelt and Henry Cabot Lodge of Massachusetts strongly opposed such Congressional action on the grounds that the break in Anglo-American friendship, which must almost inevitably result, might very easily be followed by a German attack on the Caribbean or South American interests of the United States.³

Lord Lansdowne, the British foreign secretary, however, seemed in no hurry to come to an agreement, and numerous amendments to the projected treaty were suggested.⁴ Some of the altera-

¹Enclosures in White to Hay, London, Dec. 22, 1898, Despatches, Great Britain, Vol. CXCV.

²Pauncefote to Lord Lansdowne, British Secretary of Foreign Affairs, Washington, April 25, 1901, "Correspondence Respecting the Treaty Signed at Washington, November 18, 1901, Relative to the Establishment of a Communication by Ship Canal between the Atlantic and Pacific Oceans," Parliamentary Papers, 1902 [cd. 901], p. 1.

³Roosevelt to Lodge, Oyster Bay, March 27, 1901, Henry Cabot Lodge (ed.) Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884, 1918 (2 vols.; New York: Scribner, 1925), I, 484-86; Lodge to Roosevelt, Washington, March 30, 1901, ibid., pp. 486-88.

⁴Lansdowne to [James?] Lowther, Aug. 3, 1901, Parliamentary Papers, 1902, op. cit., pp. 2-6.

tions proposed, indeed, would have tended to strengthen in the new convention certain of the features of the Clayton-Bulwer treaty which the United States deemed most objectionable; but, ultimately, the British government agreed to accept the convention with only minor changes, and on November 18, 1901 the second Hay-Pauncefote treaty was signed.¹

The new agreement provided for the abrogation of the Clayton-Bulwer treaty, and, while it included no provisions in regard to fortifications for the protection of a canal to be constructed, owned, and controlled by the United States, the right of the latter country to protect its property presupposed, in the absence of specific prohibitions, that all steps necessary and proper to such protection might be taken. A similar method was employed in another section wherein the words "in peace as in war" were omitted to give the United States the implied right to close the canal to the vessels of an enemy in time of war.²

Immediately upon the signing of the agreement it was transmitted to the Senate. An attempt was made in this body to introduce several amendments, but these were voted down, and on December 16 the treaty was approved.³ Ratifications were exchanged on February 21, 1902.⁴ The Clayton-Bulwer treaty had become a thing of the past.

It may be observed, in conclusion, that the controversies which occurred between Great Britain and the United States as a result of the treaty of April 19, 1850 were strongest in the 1850's (particularly from 1854 to 1857), in the early years of the 1880's, and in the period immediately following the Spanish-American War. At each successive interval, except perhaps in the 1880's, the United States made gains at the expense of the treaty rights of the British nation. Great Britain, however, appeared more anxious to develop and preserve the friendship of the New World power than to win a technical victory in the realm of international law.

¹Foreign Treaties, no. 401.

²Ibid.

³57th Cong., 1st Sess. [1901-02], Senate Doc., ser. 4226, Senate Exec. Doc. no. 82, pp. 23-25.

⁴Foreign Treaties, no. 401.

The Clayton-Bulwer treaty, which at the time of its formulation seems to have served to some extent to check British aggressions in the Western Hemisphere, and, possibly, to have acted as a deterrent to the expansion of the United States, gradually outlived its span of usefulness. As the wealth and power of the North American nation increased, it became increasingly evident that a canal under the auspices of the United States government was the only solution acceptable to the people. The treaty had become a stumbling block, and a convenient instrument to be employed by contending capitalistic interests which either wished to discourage entirely the construction of an inter-oceanic canal in the supposed favor of the railroads or the eastern seaboard cities or else intended to delay proceedings until Congressional approval might be shifted from the Nicaragua to the Panama route. With the rapid growth of the military and naval power of the United States, the British government came to a recognition of the fact that a struggle for the canal could be conducted only at a tremendous disadvantage to Great Britain. A closer international understanding offered a better solution; henceforth, it would be easier to let the United States build, maintain, and protect the great inter-oceanic highway while the two nations looked to one another for mutual aid and support against potential enemies in either the Atlantic or the Pacific area.

